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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

EDGAR RODRIGUEZ ALONZO,

Defendant and Appellant.

A146066

(Sonoma County
Super. Ct. Nos. SCR646260)

Appellant Edgar Rodriguez Alonzo appeals following his plea of no contest and his resulting sentence to two counts of assault with a semiautomatic firearm (Pen. Code,¹ § 245, subd. (b)), and his admissions that: these offenses were committed while he used a firearm (§ 12022.5, subd. (a)); he inflicted great bodily harm as a result of the assaults (§ 12022.7); and each offense was committed for the benefit of a criminal street gang (§ 186.22, subd. (b)). Appellant's counsel has filed an opening brief in which no issues are raised, and asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has declared that appellant has been notified that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Appellant was also advised of his right personally to file a supplemental brief raising any issues he chooses to bring to this court's attention. No supplemental brief has been filed by appellant personally.

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

We note that appellant has not obtained a certificate of probable cause, which is required by section 1237.5 when a defendant seeks to appeal from a judgment entered following a guilty or no contest plea. However, the notice of appeal states that the appeal is based upon the sentence imposed after his plea, and that the appeal does not affect the validity of the underlying plea. Therefore, we limit our review to determine if there are any meritorious issues that require further briefing relating to the sentence imposed. (*People v. Kelly* (2006) 40 Cal.4th 106.) Having done so, we conclude that there are no arguable issues on appeal.

PROCEDURAL AND MATERIAL FACTUAL BACKGROUND OF CASE

A five-count criminal information was filed by the Sonoma County District Attorney on June 11, 2014, charging appellant with two counts of attempted murder (§§ 664/187, subd. (a)), two counts of assault with a semiautomatic weapon (§ 245, subd. (b)), and one count of being a felon in possession of a firearm (§ 29800, subd. (a)(1)). Several sentencing enhancements were also alleged, including that the offenses were committed for the benefit of a criminal street gang, within the meaning of section 186.22, subdivision (b)(1)(C). Initially appellant entered a plea of not guilty to the charges, and he denied the special allegations.

Thereafter, appellant entered into a negotiated disposition of the case with the prosecution. Under this agreement appellant entered a change of plea and pleaded no contest to the two assault charges, and he admitted the arming enhancement, great bodily injury enhancement, and the criminal street gang enhancement. It was agreed that appellant would be sentenced to a total of 22 years in state prison as part of the disposition, and that the rest of the charges and enhancements would be dismissed by the prosecution. The plea form confirmed that appellant was advised of the constitutional rights he was waiving by accepting the plea deal, and that he voluntarily and knowingly waived those rights.

The plea was also entered on the record on January 13, 2015, at which time the terms of the negotiated plea disposition were recited in open court. Appellant was again admonished about the rights he was waiving by entering into the plea deal, and he

acknowledged that he was doing so voluntarily and knowingly. The plea was accepted by the court, and sentencing was scheduled for a future date.

Sentencing ultimately took place on July 28, 2015. The trial court indicated that it had reviewed the presentence report prepared by the county probation office. The court indicated its intention to follow the terms of the negotiated disposition and the recommendation of the probation report in light of appellant's extensive juvenile and adult criminal records, the increasing dangerousness of his crimes, and the continuing danger he posed to the community. Thus, appellant was sentenced to a total of 22 years in state prison, calculated as follows: one of the assault convictions was selected for the principal term of three years which was the mitigated term for that crime; a consecutive term of 10 years was imposed for the criminal street gang enhancement; a consecutive term of four years was imposed for the arming enhancement; a three-year consecutive term was imposed for the great bodily injury enhancement; and a two-year consecutive term was imposed for the second assault conviction.² Custody credits totaling 611 days were awarded. Restitution fines were imposed, including victim restitution in the amount of \$3,508.04.

CONCLUSIONS BASED UPON INDEPENDENT RECORD REVIEW

Upon our independent review of the record we conclude there are no meritorious issues to be argued, or that require further briefing on appeal. We discern no error in the sentencing. The sentence appellant received, including the restitution fines, penalties, and conditions imposed were supported by the law and facts. At all times appellant was represented by counsel.

DISPOSITION

The judgment is affirmed.

² Apparently, there was also a probation violation petition adjudicated relating to a prior case (SCR629852) based on a violation of section 23152, subdivision (a), for which the court imposed a concurrent two-year state prison term.

RUVOLO, P. J.

We concur:

REARDON, J.

RIVERA, J.